

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	8:06CR209
)	
v.)	
)	
GARY BOWEN,)	PRELIMINARY ORDER
)	OF FORFEITURE
Defendant.)	
_____)	

This matter is before the Court upon the United States' Motion for Issuance of Preliminary Order of Forfeiture and Memorandum Brief (Filing No. 60). The Court has reviewed the record in this case and finds as follows:

1. Defendant, Gary Bowen, has entered in to a Plea Agreement, whereby he has agreed to plead guilty to Counts I, II and III of an Information. Count I of said Information charges the defendant with conspiracy to distribute methamphetamine, a violation of 21 U.S.C. § 846. Count II of said Information charges the defendant with possession of a firearm less than 16 inches in length not registered to the defendant, a violation of 26 U.S.C. §§ 5841, 5861(d) and 5871. Count III of the Information charges the defendant, Gary Bowen, with using an SKS rifle on the basis it was involved or used in the knowing commission of the offense charged in Count II of the Information filed herein. Pursuant to a Plea Agreement, the defendant, Gary Bowen, also agreed to forfeit the following:

- a. 9 mm Jennings model Bryco 59 handgun, serial number 826035
- b. .32 caliber American double action revolver

2. By virtue of said pleas of guilty, the defendant forfeits his interest in the subject properties, and the United States should be entitled to possession of said properties, pursuant to 18 U.S.C. § 924(d) and 28 U.S.C. § 2461(c).

3. The United States' Motion for Issuance of Preliminary Order of Forfeiture should be sustained.

IT IS ORDERED:

A. The United States' Motion for Issuance of Preliminary Order of Forfeiture is sustained.

B. Based upon Counts III of the Information and the defendant's pleas of guilty, the Bureau of Alcohol, Tobacco and Firearms for the District of Nebraska ("ATF") is hereby authorized to seize the following-described properties:

- a. SKS rifle
- b. 9 mm Jennings model Bryco 59 handgun, serial number 826035
- c. .32 caliber American double action revolver

C. Defendant's interest in said properties is hereby forfeited to the United States of America for disposition in accordance with the law, subject to the provisions of 28 U.S.C., §2461(c).

D. The aforementioned forfeited properties are to be held by ATF in its secure custody and control.

E. Pursuant to 28 U.S.C., §2461(c), ATF forthwith shall publish at least once for three successive weeks in a newspaper of general circulation, in the county where the subject properties are situated, notice of this Order, notice of ATF's intent to dispose of the properties in

such manner as the Attorney General may direct, and notice that any person, other than the defendant, having or claiming a legal interest in any of the subject forfeited properties must file a Petition with the court within thirty (30) days of the final publication of notice or of receipt of actual notice, whichever is earlier.

F. Said published notice shall state the Petition referred to in Paragraph E., above, shall be for a hearing to adjudicate the validity of the Petitioner's alleged interest in the properties, shall be signed by the Petitioner under penalty of perjury, and shall set forth the nature and extent of the Petitioner's right, title or interest in the subject properties and any additional facts supporting the Petitioner's claim and the relief sought.

G. The United States may also, to the extent practicable, provide direct written notice to any person known to have alleged an interest in the properties subject to this Order as a substitute for published notice as to those persons so notified.

H. Upon adjudication of all third-party interests, this Court will enter a Final Order of Forfeiture pursuant to 28 U.S.C., § 2461(c), in which all interests will be addressed.

DATED this 31st day of October, 2006.

BY THE COURT:

/s/ Lyle E. Strom

LYLE E. STROM, Senior Judge
United States District Court